

Division of Securities
Utah Department of Commerce
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Salt Lake City, UT 84114-6760
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BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF:

**ITEC MANUFACTURING, LLC,
DOUGLAS CLAIR MORBY,**

Respondents.

**STIPULATION AND CONSENT
ORDER**

Docket No.

Docket No.

SD-11-0029
SD-11-0029

The Utah Division of Securities (the Division), by and through its Director of Enforcement, Michael Hines, and ITEC Manufacturing, LLC and Douglas Clair Morby, hereby stipulate and agree as follows:

1. ITEC Manufacturing, LLC and Douglas Clair Morby were the subjects of an investigation conducted by the Division into allegations that they violated certain provisions of the Utah Uniform Securities Act (the Act), Utah Code Ann. ' 61-1-1. *et seq.*, as amended.
2. The Division has now concluded its investigation and the parties have agreed to completely resolve this matter by way of a stipulation and consent order.

3. By entering into this stipulation and consent order, ITEC Manufacturing, LLC and Douglas Clair Morby waive the filing of an order to show cause and a notice of agency action.
4. Respondents waive any right to a hearing to challenge the Division's evidence and present evidence on their behalf.
5. Respondents acknowledge that this agreement does not affect any enforcement action that might be brought by a criminal prosecutor or any other local, state, or federal enforcement authority.
6. Respondents admit the jurisdiction of the Division over them and over the subject matter of this action.

I. THE DIVISION'S FINDINGS OF FACT

THE RESPONDENTS

7. ITEC Manufacturing, LLC (ITEC) is a Utah corporation as of July 6, 2001. Keith Barton Penrod (Penrod) is listed as manager. ITEC's status as a business entity expired as of November 07, 2007.
8. Douglas Clair Morby (Morby) was, at all times relevant to the matters asserted herein, a resident of Utah. He currently resides in Tucson, AZ.

GENERAL ALLEGATIONS

9. On April 24, 2006, ITEC and Morby offered and sold an investment contract to an investor in or from Utah, and collected a total of \$35,000.

10. Investment contracts are securities under the Act.
11. Respondents told the investor that the principal would be used to purchase a “rig mat¹” and the investor would earn a return of 149% after the first year and 93% after the second.
12. The investor lost \$33,250 of his principal investment.

INVESTOR RH

13. From December 2002 until approximately July 2006, ITEC leased commercial property owned by RH at 58 S. 900 W. in Brigham City, Utah. ITEC operated from this property during that time.
14. On April 24, 2006, Morby met with RH in ITEC’s offices to discuss a potential investment in ITEC by RH.
15. Morby told RH that ITEC was setting up an equipment rental company in Alberta, Canada called Global Energy Services Company (GES) which would manufacture and rent “rig mats” to oil rig companies in Canada.
16. Morby said that ITEC was offering investors a chance to invest in a profit-share of the rig mats that were rented.
17. During the presentation, Morby made the following representations:
 - a. Investing in a rig mat would be \$3500 per unit at a minimum:

¹According to a document given to RH, by Morby, “[r]ig mats are structures that are placed flat on the ground and are used as temporary roads or as platforms for heavy equipment.”

- b. Morby was targeting other investors as well;
 - c. RH would make 149% return on the investment for the first year and 93% return for the second;
 - d. RH would receive profits from GES as soon as the rig mat is rented;
 - e. RH be paid back within five months; and
 - f. RH could sell the rig mat back at any time.
18. Morby told RH that the investment made a profit in the following manner:
- a. GES would pool the rig mats purchased by all the investors, rent them, and distribute the profits to the investors;
 - b. GES would rent each rig mat for \$1200;
 - c. GES would pay rental fees on a monthly basis based on the amount of rent collected from end users; and
 - d. GES would pay investors at an accelerated rate until the market value of the rig mats is recovered.
19. Morby gave RH the following documents prior to the investment:
- a. A generic letter distributed to investors which described the investment;
 - b. A spreadsheet showing examples of rates; and
 - c. A sample diagram of what RH's investment would look like if he invested in ten rig mats.

20. Morby did not produce financial statements nor did he discuss risk factors, capitalization, or suitability factors. Morby never disclosed his involvement in any legal proceedings, including a complaint filed against him by the U.S. Attorney's office.²
21. Based on Morby's representations, RH decided to invest in ten rig mats with ITEC. On April 24, 2006 while in ITEC's offices in Brigham City, Utah, RH gave Morby a check for \$35,000 payable to "ITEC Mfg."
22. Bank records revealed that on April 25, 2006, \$35,000 was deposited into ITEC's Bank of Utah account. A first-in-first-out analysis shows that ITEC used the \$35,000 funds in the following manner: (1) \$18,075 paid to R&S Steel³; and (2) \$16,925 paid to Ebeling Enterprises, LLC.⁴

²See *USA v. Paysource, et al.*, Case Number 2:03-cv-00306-TCW-BCW in the U.S. District Court of Utah in Salt Lake County. The conduct at issue in the complaint involved a payroll service company, of which Morby was a shareholder and CEO, called Provident Management Group, Inc. (PMG) The complaints requested that a restraining order and a receivership be assigned to PMG for failure to pay millions of dollars in taxes owed by PMG's clients. Morby signed a settlement agreement with the IRS on the matter on January 31, 2006. Morby was later indicted on June 27, 2008 for conspiracy, mail fraud, and willful failure to pay over tax monies. Morby served a prison sentence for conspiracy.

³R&S Steel is a Utah company which specializes in steel structure manufacturing. According to company officials, R&S Steel has contracted with ITEC in the past to provide ITEC with structural steel for rig mats. The \$18,075 ITEC transferred to R&S Steel on April 25, 2006 is consistent with ITEC's rig mat purchases

⁴Ebeling Enterprises, LLC is a Utah company that specializes in machinery. According to company officials, Ebeling Enterprises, LLC provided injection molding services for services unrelated to rig mats.

23. A few months after RH's investment, ITEC fell behind in its lease payments. RH requested that they move out, and ITEC did so.
24. In the winter of 2006, RH visited ITEC's new facility in Ogden, Utah of Weber County to inquire about the rig mats in which RH invested. Morby told RH that the rig mats were built and were being stored in the office building in Ogden. Morby pointed out the rig mats to RH.
25. A short time later, RH visited ITEC's office building again and the rig mats were gone.
26. Penrod told RH that he would try to pay RH back. Penrod made an initial payment of \$500. Penrod then made monthly payments of \$250 for five months.
27. ITEC still owes RH \$33,250 in principal.⁵

SECURITIES FRAUD

28. In connection with the offer and sale of a security, Respondents, directly or indirectly, made false statements, including, but not limited to, the following:
 - a. That \$16,925 of RH's funds would not be used to manufacture rig mats.
29. In connection with the offer and sale of a security, Respondents, directly or indirectly, failed to disclose material information, including, but not limited to, the following, which was necessary in order to make statements made not misleading:
 - a. That Morby had recently signed a settlement agreement with the IRS:

⁵In a letter to the Division dated April 20, 2010, Morby expressed a desire to pay R.H. the \$33,250 owed him.

- b. That ITEC had ten UCC filings; and
- c. Some or all of the information typically provided in an offering circular or prospectus regarding ITEC, such as:
 - i. The identity of ITEC's principals along with their experience in the business;
 - ii. ITEC's financial statements;
 - iii. The market for ITEC's service(s);
 - iv. The nature of the competition for the service(s);
 - v. The track record of ITEC to other investors;
 - vi. The number of other investors;
 - vii. The risk factors for ITEC's investors;
 - viii. Discussion of relevant suitability factors for the investment;
 - ix. Any conflicts of interest the issuer, the principals, or the agents may have with regard to the investment;
 - x. Agent commissions or compensation for selling the investment;
 - xi. Any involvement of ITEC or its principals in certain legal proceedings, including bankruptcy or prior violations of state or federal securities laws;
 - xii. Whether the investment is a registered security or exempt from registration;
and
 - xiii. Whether the person selling the investment is licensed.

II. THE DIVISION'S CONCLUSIONS OF LAW

30. Based on the Division's investigative findings, the Division concludes that:
- a. The investment opportunities offered and sold by Respondents are securities under ' 61-1-13 of the Act;
 - b. Respondent violated ' 61-1-1 of the Act by making misstatements of material facts and by omitting to state material facts in connection with the offer and sale of a security.

III. REMEDIAL ACTIONS/SANCTIONS

31. Respondents admit the Division's findings and conclusions and consent to the sanctions below being imposed by the Division.
32. Respondents represent that any information they provided to the Division as part of the Division's investigation of this matter is accurate.
33. Respondents agree to the imposition of a cease and desist order, prohibiting them from any conduct that violates the Act.
34. Morby agrees that he will be barred from (I) associating⁶ with any broker-dealer or investment adviser licensed in Utah; (ii) acting as an agent for any issuer soliciting investor

⁶“Associating” includes, but is not limited to, acting as an agent of, receiving compensation directly or indirectly from, or engaging in any business on behalf of a broker-dealer, agent, investment adviser, or investment adviser representative licensed in Utah. “Associating” does not include any contact with a broker-dealer, agent, investment adviser, or investment adviser representative licensed in Utah incidental to any personal relationship or business not related to the sale or promotion of securities or the giving of investment advice in the State of Utah.

funds in Utah, and (iii) from being licensed in any capacity in the securities industry in Utah.

35. Pursuant to Utah Code Ann. § 61-1-6(1)(d) and in consideration of the guidelines set forth in Utah Admin. Code Rule R164-31-1, the Division imposes a fine of \$60,000 with the following provisions:

- a. \$26,750 of the fine will be held in abeyance contingent on no securities laws violations for sixty months from entry of this Order.
- b. Each dollar paid by Respondents to the investor towards restitution (\$33,250) shall be credited by the Division toward payment of the fine. Respondents shall send to the Division the cancelled checks for each payment made to the investor.
- c. If Respondents materially violate any of the terms of this Stipulation and Consent Order within the abeyance period following the entry of the Order, thirty days after notice of default and opportunity to be heard before an administrative officer on the sole issue of compliance with this Order, Respondents consent to a judgment ordering the entire fine immediately due.

36. Respondents agree to cooperate with the Division, the State of Utah, and the Federal Government in any future investigations and/or prosecutions relevant to the matter herein.

IV. FINAL RESOLUTION

37. Respondents acknowledge that this Order, upon approval by the Securities Commission shall be the final compromise and settlement of this matter.

38. Respondents further acknowledge that if the Securities Commission does not accept the terms of the Order, it shall be deemed null and void and without any force or effect whatsoever.
39. Respondents acknowledge that the Order does not affect any civil or arbitration causes of action that third-parties may have against them arising in whole or in part from their actions, and that the Order does not affect any criminal causes of action that may arise as a result of their conduct referenced herein.
40. The Stipulation and Consent Order constitute the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect the Order in any way.

Utah Division of Securities

Date: 7-20-11
By: [Signature]
Michael Hines
Director of Enforcement

Respondent Morby

Date: 7-20-11
By: [Signature]
Douglas Clair Morby

Approved:

[Signature]
Jeff Buckner
Assistant Attorney General
T.B.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Division has made a sufficient showing of Findings of Fact and Conclusions of Law to form a basis for this settlement.
2. Respondents cease and desist from violating the Utah Uniform Securities Act.
3. Morby agrees to be permanently barred from the securities industry in Utah.
4. Division imposes a fine of \$60,000 off-set by restitution payments to the investor.
5. If Respondents materially violate any of the terms of this Order the full fine amount shall be imposed against the Respondents, jointly and severally, and become due immediately.
6. \$26,750 of the fine amount shall be waived contingent on no securities violations for sixty months;
7. Respondents cooperate with the Division in any future investigations.

BY THE UTAH SECURITIES COMMISSION:

DATED this 28th day of July, 2011.

Tim Bangerter

Jane Cameron

Erik Christiansen

Laura Polacheck

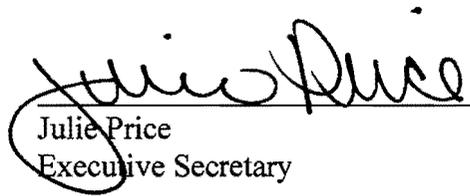
Jan Strabam

CERTIFICATE OF MAILING

I, Julie Price, hereby certify that on the 3rd day of August 2011, I mailed, by certified mail, a true and correct copy of the forgoing **Stipulation and Consent Order** to:

ITEC Manufacturing, LLC
Douglas Clair Morby
70 South Val Vista Drive #191
Gilbert, AZ 85296

Certified Receipt #: 7007 0220 0001 0063 6271



Julie Price
Executive Secretary